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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,298	11/18/2003	Kenneth Schober	SOFT 8517US (U1)	6944
1688	7590	06/26/2006	EXAMINER	
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERSCOURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			KARKHANIS, AASHISH	
			ART UNIT	PAPER NUMBER

3714

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/716,298

Applicant(s)

SCHOBER ET AL.

Examiner

Aashish Karkhanis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/11/04, 11/17/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 – 2 and 16 – 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwan et al. (U.S. Patent 5,741,185).

Regarding Claim 1, Kwan discloses a laser station for an interactive target system including a controller and a laser station (col. 1, lins. 49 – 51; where a target is a laser station) including a light emitting device and a charging apparatus (col. 2, lins. 11 – 17) the light emitting device being operable to fire discreet beams of energy at said targets (col. 2, lins. 42 – 43), the light emitting device sending a signal to the controller each time the light emitting device is activated to fire a beam of energy (col. 2, lins. 11 – 13; where a controller receives information about an activation can provide more functions such as a sound effect), the charging apparatus including an activity device which is operable by a participant and a detector which is activated as the participant operates the activity device, said detector sending a signal to the controller each time the detector is activated, said controller determining the number of shots which can be fired from the light emitting device based upon the signals from the light emitting device and from the charging apparatus (col. 2, lins. 15 – 17; where a charging apparatus includes a reload operation for adding additional radiation shots).

Regarding Claim 2, Kwan discloses a game system wherein said activity is selected from a physical activity, a skill activity, and combinations thereof (col. 9, lins. 1 – 3; where an activity is a physical activity of button operation).

Regarding Claims 16 – 18, Kwan discloses an amusement system including a plurality of light activated targets (col. 9 lins. 30 – 31), a laser station including a light emitting device (col. 2, lins. 42 – 43; where a gun and vest player combination is a station) and an activity-associated charging apparatus at which a participant can perform an activity (col. 9, lins. 1 – 3), the light emitting device being operable when to fire beams of energy at said targets, said light emitting device generating a signal each time it is fired (col. 2, lins. 11 – 13; where a controller receives information about an activation can provide more functions such as a sound effect), the charging apparatus including a detector which monitors performance of the activity at said activity station (col. 9, lins. 1 – 3; where a detector monitors if a reload activity button has been pressed), and a controller being operatively connected to said light emitting device to limit the number of times the light emitting device can be activated, the controller receiving said signals from said light emitting device and said charging apparatus and, in response to said signals, controlling the number of times the light emitting device can be activated (col. 1, lins. 45 – 49; where an activation cannot occur after the end of a game for a player when a certain number of hits have been recorded by the target), preventing firing of the light emitting device if the number of shots which can be fired is zero (col. 9, lins. 1 – 3), and detecting when the target is hit by a light beam from the light emitting device, and initiating a target-hit response each time a target is hit wherein

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said target-hit response includes is selected from visual effects, sound effects, activation of deactivated targets, deactivation of activated targets, and combinations thereof (col. 4, lins. 31 – 34).

Regarding Claims 19 – 21, Kwan discloses a step of determining a score for the participant or participants at the laser station, wherein each target is provided with a score value, said step of determining a score comprising a shoot-score based upon the participant's hitting of the targets, the shoot-score being the sum of the score value for each target hit (col. 1, lins. 45 – 46).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3 – 10, 20 – 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. (U.S. Patent 5,741,185).

Regarding Claims 3 – 10, Kwan discloses a game system wherein said activity is selected from a physical activity, a skill activity, and combinations thereof (col. 9, lins. 1 – 3; where an activity is a physical activity of button operation), but does not disclose a pumping activity, a hand pumping activity, a foot pumping activity, a stepping activity, a stair stepping activity, a cranking activity, a walking or running activity, or passing balls through and/or into said light emitting device. However, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the game of

Kwan with a basic activity with multiple types of physical activities as is well known and established in the art in order to increase enjoyment and excitement for a player.

Regarding Claims 19 – 21, Kwan discloses a step of determining a score for the participant or participants at the laser station, wherein each target is provided with a score value, said step of determining a score comprising a shoot-score based upon the participant's hitting of the targets, the shoot-score being the sum of the score value for each target hit (col. 1, lins. 45 – 46), and indicating which targets are active and which targets are inactive (col. 2, lins. 10 – 14; where an active mode is explicitly stated and an inactive mode is inherently required). Kwan does not disclose providing the active targets with positive score values and the deactivated targets with negative score values. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the shooting game system including active and inactive targets and a method for recording the number of hits of Kwan with a point system penalizing hits on inactive targets in order to increase enjoyment for a player by creating a disincentive for players to shoot an inactive target and only shoot active targets.

Regarding Claims 22 – 23 and 25, Kwan discloses a game system wherein said activity is selected from a physical activity, a skill activity, and combinations thereof; determining a charging-score based upon performance of the activity at the charging apparatus, said charging score being based upon the number of iterations of the physical or skill activity performed in a predetermined time, the time taken to complete the skill activity, or upon successful completion of a skill activity (col. 9, lins. 1 – 3;

where an activity is a physical activity of button operation). Kwan does not disclose a charging score which is decremented if the skill activity is completed incorrectly.

However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the shooting game system using an charging activity device of Kwan with a point system penalizing incorrect charging in order to increase conservation of shots for a player by creating a disincentive for players to shoot an inactive target and only shoot active targets by minimizing charging operations.

3. Claims 11 – 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan in view of Morrison et al. (U.S. Patent 4,207,087).

Regarding Claims 11 – 14, Kwan discloses a game system wherein said charging system activates a single element, but does not disclose a plurality or elements of the activation of a plurality of elements in a specific order. However, Morrison teaches a plurality of elements in a random order; said activity involving pressing said elements in the same order in which they were activated (col. 1, lins. 46 – 55), wherein said elements comprise pegs which are raised, said activity comprising lowering said pegs in the same order in which they were raised (fig. 1, elems. 14, 16, 18, 20; where pegs are analogous to raised buttons), and wherein said elements comprise lighted buttons; said activity comprising pressing said buttons in the same order in which they were lit (col. 1, lins. 46 – 55), wherein said charging system includes a plurality of buttons of varying size; said activity comprising pressing said buttons (col. 1, lins. 46 – 55). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the game system using a single charging

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button of Kwan with an analogous game system using multiple buttons to achieve a generic win or award condition of Morrison in order to increase excitement and increase incentive to conserve shots for a player by requiring a player to complete more actions before being able to recharge a device.

Regarding Claim 15, Kwan discloses a game system with a single-button charging element, but does not disclose a game system with multiple buttons arranged in a particular manner. However, Morrison teaches a game system wherein said buttons are arranged generically and can be oriented in any direction of any size, including in a generally vertical pattern, with a largest of the buttons being the lowest button and the smallest of the buttons being the highest button (col. 2, lins. 33 – 60; where a description of the general functions of the game do not include or exclude any type of button configuration). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the game system using a single charging button of Kwan with an analogous game system using multiple buttons to achieve a generic win or award condition of Morrison in order to increase excitement and increase incentive to conserve shots for a player by requiring a player to complete more actions before being able to recharge a device.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S Patent 4,487,583: Laser tag system.

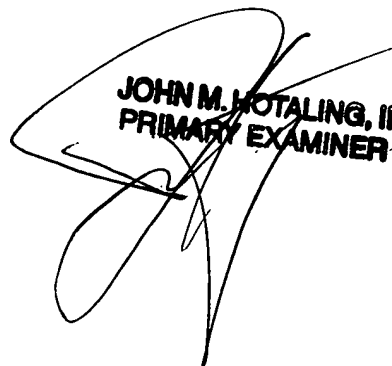


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aashish Karkhanis whose telephone number is (571) 272-2774. The examiner can normally be reached on 0800-1630 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARK

  
**JOHN M. KOTALING, II**  
**PRIMARY EXAMINER**